



Federal Register

**Thursday,
November 30, 2000**

Part LVI

**Federal Maritime
Commission**

Semiannual Regulatory Agenda

FEDERAL MARITIME COMMISSION (FMC)

FEDERAL MARITIME COMMISSION

800 North Capitol Street NW.,
Washington, DC 20573, (202) 523-5725.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Maritime Commission's Statement of Regulatory Priorities is included in part II.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 2000, to September 30, 2001, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Bryant L. VanBrakle, Secretary,

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings that are under staff review.

Bryant L. VanBrakle,
Secretary.

Federal Maritime Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4652	The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984 (Docket No. 99-13)	3072-AC11

Federal Maritime Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4653	Petition No. P1-00—Petition of the Port of Houston Authority for the Institution of a Rulemaking Proceeding	3072-AC16

Federal Maritime Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4654	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4655	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4656	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97
4657	Docket No. 00-07—Public Access Charges to Carrier Automated Tariffs and Tariff Systems Under the Ocean Shipping Reform Act of 1998	3072-AC14

Federal Maritime Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4658	Ocean Common Carriers Subject to the Shipping Act of 1984 (Docket No. 99-10)	3072-AC09
4659	Docket No. 00-06—Interpretations and Statements of Policy Regarding Ocean Transportation Intermediaries	3072-AC13
4660	Docket No. 00-09—Inflation Adjustment of Civil Monetary Penalties	3072-AC15

Federal Maritime Commission (FMC)

Proposed Rule Stage

4652. THE CONTENT OF OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 99-13)**Priority:** Substantive, Nonsignificant**Legal Authority:** 46 USC app 1701 et seq; PL 105-258**CFR Citation:** 46 CFR 535**Legal Deadline:** None**Abstract:** The FMC is issuing this inquiry to solicit comments concerning the appropriate content of agreements filed with the Commission pursuant to

the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998. The comments received will assist the Commission in preparing a proposal to update or refine the existing content standards.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/03/99	64 FR 42057
Inquiry Comment Period End	10/04/99	
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Austin L. Schmitt, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
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Email: austins@fmc.gov**RIN:** 3072-AC11

Federal Maritime Commission (FMC)

Final Rule Stage

4653. • PETITION NO. P1-00— PETITION OF THE PORT OF HOUSTON AUTHORITY FOR THE INSTITUTION OF A RULEMAKING PROCEEDING**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 553; 46 USC app 1709(d)(1); 46 USC app 1716**CFR Citation:** 46 CFR 525.2**Legal Deadline:** None**Abstract:** Petitioner Port of Houston Authority requests the FMC to institute a rulemaking proceeding for the purpose of promulgating a rule addressing the lawfulness of unilateral provisions which provide for the collection of attorneys' fees in contracts

or tariffs of marine terminal operators under the provisions of the Shipping Act of 1984, as amended. Specifically, Petitioner seeks a rule which confirms that it is not illegal under the Shipping Act for marine terminal operators to contract with their customers, by tariff or otherwise, to permit the collection of attorneys' fees and litigation costs in the event the marine terminal operator is required to sue in court to collect fees for services that have been rendered.

Timetable:

Action	Date	FR Cite
Notice of Filing of Petition	01/13/00	65 FR 2177

Action	Date	FR Cite
Comment Period End	02/07/00	
Final Action-Petition Denied	12/00/00	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
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Federal Maritime Commission (FMC)

Long-Term Actions

4654. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)**Priority:** Substantive, Nonsignificant**CFR Citation:** 46 CFR 520.11**Timetable:**

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	

Action	Date	FR Cite
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	To Be Determined	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Thomas Panebianco
Phone: 202 523-5740
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Email: thomas__p@fmc.gov**RIN:** 3072-AB75**4655. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)****Priority:** Other Significant**CFR Citation:** 46 CFR 540.5; 46 CFR 540.9**Timetable:**

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	

FMC

Long-Term Actions

Action	Date	FR Cite
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940
Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	To Be Determined	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses**Government Levels Affected:** None

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RIN: 3072-AB80

4656. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)
Priority: Other Significant**CFR Citation:** 46 CFR 551**Timetable:**

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160

Action	Date	FR Cite
Comment Period Extended to	12/27/96	61 FR 68200
Extended to	01/20/97	
NPRM Comment Period End	01/13/97	
Final Rule - Report Due 08/26/1999 and Every 180 Days Thereafter	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Status Reports and Comments Due	04/16/97	62 FR 18433
08/05/97		
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to	04/16/97	62 FR 18533
09/04/97		
Status Reports and Comments Due	04/16/97	62 FR 18533
07/01/97		
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended	11/19/97	62 FR 61648
11/13/97		
Final Rule Removed	06/07/99	64 FR 30245
Final Rule Removed Effective	06/07/99	
Next Action Undetermined		

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses**Government Levels Affected:** None

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RIN: 3072-AB97

4657. • DOCKET NO. 00-07—PUBLIC ACCESS CHARGES TO CARRIER AUTOMATED TARIFFS AND TARIFF SYSTEMS UNDER THE OCEAN SHIPPING REFORM ACT OF 1998
Priority: Substantive, Nonsignificant**Legal Authority:** PL 105-258; 46 USC app 1707(a)(2)**CFR Citation:** 46 CFR 520**Legal Deadline:** None

Abstract: The FMC is concerned that certain tariff access charges and minimum monthly subscription requirements may limit the public's ability to access the automated tariffs and tariff systems of common carriers, contrary to the requirements of the Ocean Shipping Reform Act of 1998. Therefore, it is seeking public comments to address the reasonableness of tariff access charges.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/00	65 FR 31130
ANPRM Comment Period End	06/15/00	
Circular Letter Issued	10/06/00	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses**Government Levels Affected:** None

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RIN: 3072-AC14

Federal Maritime Commission (FMC)

Completed Actions

4658. OCEAN COMMON CARRIERS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 99-10)
Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 21 USC 862; 31 USC 9701; 46 USC app 1701 to 1710; 46 USC app 1712; PL 105-258; PL 105-383; 46 USC app 1714 to 1718

CFR Citation: 46 CFR 515; 46 CFR 520; 46 CFR 530; 46 CFR 535

Legal Deadline: None

Abstract: The FMC proposes to amend its regulations implementing the Shipping Act of 1984 to clarify the definition of "ocean common carrier" to reflect the Commission's current interpretation of the term. As a result, only ocean common carriers that operate vessels in at least one U.S. trade will be subject to these rules.

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34183
NPRM Comment Period End	08/24/99	
Final Action	05/08/00	65 FR 26506
Final Action Effective	08/07/00	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

FMC

Completed Actions

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RIN: 3072-AC09

**4659. • DOCKET NO. 00-06—
INTERPRETATIONS AND
STATEMENTS OF POLICY
REGARDING OCEAN
TRANSPORTATION INTERMEDIARIES**

Priority: Info./Admin./Other

Legal Authority: 5 USC 553; 31 USC 9701; 46 USC app 1702; 46 USC app 1706 to 1707; 46 USC app 1709 to 1710; ...

CFR Citation: 46 CFR 515; 46 CFR 545

Legal Deadline: None

Abstract: On March 8, 1999, the FMC published a final rule and interim final rule to add new regulations at 46 CFR part 515 to implement changes made by the Ocean Shipping Reform Act of 1998 relating to ocean transportation intermediaries (OTIs). Section 515.23(b) sets forth the claim settlement procedure for claimants seeking to pursue a claim against an OTI. This Interpretive Rule seeks to clarify the Commission's intention with respect to this procedure, as there have been

reported misunderstandings in the industry as to the responsibilities inherent in this requirement.

Timetable:

Action	Date	FR Cite
Interpretive Rule	05/24/00	65 FR 33479
Interpretive Rule Effective	06/23/00	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3072-AC13

**4660. • DOCKET NO. 00-09—
INFLATION ADJUSTMENT OF CIVIL
MONETARY PENALTIES**

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553(b)(B); 28 USC 2461; PL 101-410; PL 104-134

CFR Citation: 46 CFR 506.4

Legal Deadline: None

Abstract: The Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Act), as amended by the Debt

Collection Improvement Act of 1996 (1996 Act), requires the inflation adjustment of Civil Monetary Penalties (CMP) to ensure that they continue to maintain their deterrent value. The 1996 Act requires that, not later than 180 days after its enactment and at least once every 4 years thereafter, the head of each agency shall, by regulation published in the Federal Register, adjust each CMP within its jurisdiction by the inflation adjustment described in the 1990 Act. This final rule meets those requirements.

Timetable:

Action	Date	FR Cite
Final Action	08/15/00	65 FR 49741
Final Action Effective	08/15/00	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3072-AC15

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